



THE ATTORNEY GENERAL OF TEXAS

JOHN BEN SHEPPERD
ATTORNEY GENERAL

AUSTIN 11, TEXAS

June 10, 1955

Honorable Claude Isbell
Executive Secretary
Board of Regents
State Teachers Colleges
Austin, Texas

Letter Opinion No. MS-221

Re: Use of funds collected
under Section 17 of
Article VII of the Con-
stitution after December
31, 1957, for completion
of buildings begun in 1955

Dear Senator Isbell:

Your letter requesting an opinion of this office
presents the following facts:

"One of the State Teachers' Colleges
proposes to erect a building on its cam-
pus using the proceeds of the taxes allo-
cated to such institution by the provi-
sions of Article 7, Section 17, of the
Constitution of the State of Texas. The
construction costs will be paid from the
taxes to be collected under that consti-
tutional provision during the present ten-
year period. One and perhaps two floors
of that building will remain unfinished
and unfurnished at this time so as to
remain within the amount the Comptroller
estimates will be collected and available
to such institution from said tax levy on
the date obligations issued during the
first ten-year period must mature."

Your question is whether the Board might use the
funds collected under Article 7, Section 17, after December
31, 1957, to complete and equip the building.

Your request for an opinion properly assumes that
no pledge or encumbrance may now be made against the pro-
ceeds of the tax to be collected during the second ten-year
period, and that the contracts will be properly let so as to
preclude the possible issuance of any obligations for
past due consideration.

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The first portion of your question is answered by the language of a previous opinion of this office (MS-176), which reads, in part, as follows:

" . . . The Constitution allocates (and provides for a re-allocation of) the tax proceeds to the respective institutions for certain purposes. After payment of notes and bonds issued during the initial period, any surplus thereafter collected from the taxes levied during the initial period may be used by the respective institutions during the succeeding periods for the purposes originally authorized."

The second phase of your question would be whether the institution could complete and initially equip the building from the re-allocation proceeds of the five-cent tax levies of the second ten-year period.

The Constitution of Texas (Article VII, Section 17) provides that the moneys collected shall be used for the purpose of "acquiring, constructing and initially equipping buildings or other permanent improvements at the designated institutions", and the re-allocation under the formula provided does not change the purpose of such expenditures.

The Constitution regulates the pledge of the revenues as pointed out in the previous opinion of this office (MS-176), and prescribes the purpose for which the funds may be used, and, without further limitation here pertinent, provides the amendment will be self-enacting. It is apparent that the construction of a building must necessarily extend over a period of time and does not necessarily cease upon the closing of a particular ten-year period. Your letter speaks of "completing" the building, and it is, therefore assumed that your reference is to completing the construction of the building (See A.G. Op. V-931). As so construed, it would be constitutional, under the submitted facts and conditions, for the various institutions to use

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the tax moneys as re-allocated to each institution for the purpose of completing the construction of the building and providing for its initial equipment.

Very truly yours,

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EMM-s

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